

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

MDL Docket No. 2738

This Document Relates To:

*Plaintiffs Carlos Gutierrez, individually
and on behalf of the Estate of Alicia
Hernandez; Stephanie Gutierrez; Evelyn
Gutierrez; Bryana Gutierrez; and Brian
Gutierrez*

Civil Action No. 3:18-cv-02560

**NOTICE BY THE ABOVE REFERENCED PLAINTIFFS
OF REVOCATION OF AUTOMATIC WAIVER OF *LEXECON* RIGHTS**

Plaintiffs Carlos Gutierrez, individually and on behalf of the Estate of Alicia Hernandez; Stephanie Gutierrez; Evelyn Gutierrez; Bryana Gutierrez; and Bryan Gutierrez have been selected for inclusion in the “Selected Case” group as that term has been defined by the Court in its Order entered on May 15, 2020 (ECF 13317) (“Order”), and after that selection, were then selected as a “Discovery Pool” case as that term is defined by the Order.

Pursuant to the Paragraph 3 of the Order, each Plaintiff in the Selected Case group is deemed to waive that Plaintiff's rights under *Lexecon v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998), if that Plaintiff becomes one of the Discovery Pool Cases as defined in the Order, unless the Plaintiff files a statement with the Court stating that the Plaintiff does not wish to waive their *Lexecon* rights, within thirty (30) days from the date of selection as a Discovery Pool Case. The Order further provides that if the case is not selected as a Discovery Pool Case, the waiver will be deemed null and void.

In that Plaintiffs have been selected as a Discovery Pool case, thereby causing an automatic waiver of Plaintiffs' *Lexecon* rights subject to revocation, Plaintiffs have elected to revoke the automatic waiver of Plaintiffs' rights under *Lexecon* pursuant to the right to do so under the terms of the Court's Order.

Plaintiffs understand that by this revocation of the automatic waiver of *Lexecon* that the Order provided for, Plaintiffs' case shall be removed from the Discovery Pool of cases, that discovery in the case will be stayed and that the case will not be eligible to be tried as a bellwether case in this MDL proceeding.

Dated: October 13, 2020

Respectfully submitted by,

/s/ Meghan E. McCormick

Meghan E. McCormick

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CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2020, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's ECF System.

/s/ Meghan E. McCormick

Meghan E. McCormick